

Summary of Meeting
BDAC Water Transfers Work Group
July 8, 1998
Eleventh Meeting

Key Points

- Previous meetings indicated consensus for developing a Clearinghouse entity to perform the functions identified in the draft Water Transfer Policy White Paper (Section 6.1). Discussion at this meeting indicated that some stakeholders believed that the clearinghouse should not perform the analysis functions, but should be limited to the data collection, disclosure and public process functions. It was suggested that the analysis functions could be required as a condition of approval of a transfer or of access to state or federal facilities by the SWRCB, DWR or USBR.
- An argument was made to remove "mitigation measures" from the list of solution options for a few of the identified issues. It was argued that this would infer that adverse impacts were acceptable. A baseline understanding of all local water needs is needed to allow determination of whether water is available for transfer or not.
- A suggestion that the issue of "saved or conserved water" be added as a sub-issue under the transferrable water issue.

Discussion Overview

- Participants discussed the merits of having a clearinghouse perform standard analysis for cumulative impacts and socio-economic impacts of specific transfers. Many stakeholders believe that the clearinghouse should simply act as a data collection and information disclosure entity, much like the Interagency Ecological Program. This would entail collection of data for specific transfers before they are approved and assurance that the information is available to whoever wants it prior to a transfer being approved by various authorities (SWRCB, DWR, USBR, county, water district, etc.). Under this scenario, the clearinghouse would not provide analysis functions.
- "Third party" and source area interests expressed a concern about how needed additional analysis (that does not occur now) would occur. It was suggested under existing law and authority, CALFED agencies could require additional analysis as a condition of transfer approval or access to facilities. This could be viewed as a CALFED assurance issue: third-party and source area interests need an assurance that transfer proposals are not approved until adequate analysis of impacts occur, including groundwater resources, socio-economic, cumulative and local environmental).
- Some participants believed that analysis performed by a clearinghouse entity would be biased and potentially could be influenced to provide the answers particular parties want to see. Under this argument, having the SWRCB require the same analyses and linking it to the approval process would be viewed as more objective mechanism. This raised the question as to who would perform the analysis if it was just *required* by the SWRCB or by DWR/USBR. The goal of the clearinghouse was originally to provide the necessary analysis (that does not occur now, but is desired by many potentially impacted third parties and

source area interests) without burdening either the transfer proponents or the third party interests. Having a conditional requirement could create an additional analysis burden on transfer proponents.

- Some participants felt that a policy resulting in a CALFED agency requiring analysis should be applicable to all water transfers, including transfers of pre-1914 water rights. This could occur by having USBR/DWR require proposals to transfer pre-1914 water rights seeking access to state or federal facilities to conduct particular analysis for public benefit prior to approving the access.
- It was recommended that CALFED staff draft a paper to describe how this suggested policy would look and be implemented. Staff will prepare information for the work group by the next meeting.
- Concern was expressed regarding the implication of required analysis on "emergency" drought transfers. These transfers sometimes need to be approved in very short periods and additional analysis could cause delays. Others argued that "emergency" transfers are more a result of poor planning. Droughts are inevitable, so securing potential water sources, including transfer agreements, should happen prior to "emergency" situations in most cases. Therefore, it was argued, additional analysis to provide needed information should not be viewed as a constraint. Those interested in selling water during droughts could perform analysis and public outreach prior to drought conditions and simply have to gain quick SWRCB approval when the water is ultimately desired.
- Some participants provided specific comments on the draft *Water Transfer Policy Framework* working paper. It was suggested that specific comments also be sent directly to Greg Young for consideration and inclusion.
- The work group discussed solution options listed for several of the previously identified issues (Section 4 of the draft paper). It was suggested that including "mitigation measures" as a solution option for a few of these issues was inappropriate. If included, it would send the message that adverse impacts are acceptable which, in the view of some participants, violates the CALFED "no significant redirected impacts" solution principle. A suggestion was made that a baseline understanding be developed regarding the current local water needs. This could identify whether or not there is water available for transfer without impact to other local water needs (including the environment).
- A suggestion was made to add the issue of "saved or conserved water" as a sub-issue of transferrable water and the "no injury" rule. Even though these are closely related, some participants feel that the solutions may be different and thus should be identified as separate issues.

The next meeting of the BDAC Water Transfer Work Group is scheduled for:

Wednesday, August 12, 1998 from 9:30 a.m. to 12:30 p.m. (Location to be determined)